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DEC 28 2007

In re Patent No. 7,167,340	:	OFFICE OF PETITIONS
Issued: January 23, 2007	:	DECISION ON PATENT TERM
Application No. 09/802,314	:	ADJUSTMENT and NOTICE OF
Filed: March 8, 2001	:	INTENT TO ISSUE CERTIFICATE
Dkt. No.: 9281/3900	:	OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed February 6, 2007. This matter is being treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is GRANTED TO THE EXTENT INDICATED HEREIN.

The above-identified application matured into U.S. Patent No. 7,167,340 on January 23, 2007. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 543 days. Patentee argues that the application is entitled to an adjustment of 1842 days.

An overall adjustment of 1101 days can be attributed to the Office (630 days under 37 CFR 1.702(a)(1) and 471 days under 37 CFR 1.702(a)(4).

The adjustment of 1101 days is properly reduced a total of 550 days for failure to engage in reasonable efforts to conclude prosecution.

As reflected in the decision mailed December 1, 2006, the pre-allowance reductions are as follows: 34 days in accordance with 37 CFR 1.704(b) in connection with the reply filed August 16, 2001; 242 days in accordance with 37 CFR 1.704(c)(7) in connection with the reply submitted April 15, 2002; and 34 days in accordance with 37 CFR 1.704(b) in connection with the reply filed November 5, 2004.

The post-allowance reductions are: 120 days in accordance with 37 CFR 1.704(c)(10) in connection with the IDS filed October 18, 2005 and 120 days in accordance with 37 CFR 1.704(c)(10) in connection with the IDS filed July 3, 2006.

Therefore, at the time of issuance, the patent was entitled to an adjustment of 551 days (adjustment of 1101 days less reductions of 550 days).

Patentees argue that the application is entitled to additional adjustment under 37 CFR 1.702(b) for failure to issue the patent within three years from the date upon which the application was filed.

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B) (and 37 C.F.R. § 1.704(b)), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See, 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Red. Reg. 21704 (April 22, 2004).

Herein, the period of adjustment under 37 CFR 1.702(a) not only overlaps, but actually exceeds the period beyond three years from the date that the application was filed. As such, the patent is not entitled to any additional adjustment pursuant to 37 CFR 1.702(b).

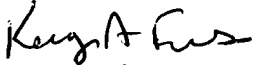
Thus, at the time of issuance, the patent was entitled to an adjustment of 550 days.

Any request for reconsideration of this decision must be submitted within two months of the mail date of the instant decision. The time period for reconsideration may not be extended pursuant to 37 CFR 1.136.

The Office acknowledges receipt of the required fee of \$200.00 for an application for patent term adjustment.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 551 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.



Kerry Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

Day : Thursday
Date: 12/27/2007**PALMINTRANET**

Time: 11:19:28

PTA Calculations for Application: 09/802314

Application Filing Date:	03/08/2001	PTO Delay (PTO):	1101
Issue Date of Patent:	01/23/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	348
Post-Issue Petitions:	0	Total PTA (days):	551
PTO Delay Adjustment:	-202		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
105	12/27/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	8		
100.5	01/03/2007	PTA 36 MONTHS			
100	01/23/2007	PATENT ISSUE DATE USED IN PTA CALCULATION	471		90
99	12/11/2006	RECEIPT INTO PUBS			
98	12/05/2006	DISPATCH TO FDC			
97	06/09/2005	ISSUE FEE PAYMENT VERIFIED			
96	12/05/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
95	12/05/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
94	12/05/2006	DISPATCH TO FDC			
93	12/05/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
92	12/05/2006	TC RETURN TO PUBS			
91	07/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
90	06/09/2005	ISSUE FEE PAYMENT VERIFIED			
88	12/01/2006	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
88	12/01/2006	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
87	11/30/2006	ADJUSTMENT OF PTA CALCULATION BY PTO			
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85	11/30/2006	ADJUSTMENT OF PTA CALCULATION BY PTO			
85	11/30/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		66	
84	07/03/2006	REFERENCE CAPTURE ON IDS			
83	07/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		8	81
82	05/19/2005	PETITION ENTERED			
81	07/10/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
79	10/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
78	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
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76	05/19/2005	MISCELLANEOUS INCOMING LETTER		120	81
75	11/16/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
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73	10/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		120	81
72	10/25/2005	RECEIPT INTO PUBS			
71	10/25/2005	RECEIPT INTO PUBS			
69	07/08/2005	RECEIPT INTO PUBS			
68	06/09/2005	ISSUE FEE PAYMENT RECEIVED			
67	04/13/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
66	03/18/2005	EXPORT TO INITIAL DATA CAPTURE			
65	03/11/2005	MAIL NOTICE OF ALLOWANCE			
64	03/11/2005	MAIL FORMAL DRAWINGS REQUIRED			
63	03/07/2005	ISSUE REVISION COMPLETED			
62	03/07/2005	FORMAL DRAWINGS REQUIRED			
61	03/07/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	03/07/2005	NOTICE OF ALLOWABILITY			
57	02/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	02/24/2005	DATE FORWARDED TO EXAMINER			
55	02/17/2005	AMENDMENT AFTER FINAL REJECTION			
53	02/17/2005	WORKFLOW INCOMING AMENDMENT IFW			
52	10/29/2004	REFERENCE CAPTURE ON IDS			
51	10/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

50	12/15/2004	DATE FORWARDED TO EXAMINER			
49	11/05/2004	AMENDMENT AFTER FINAL REJECTION		34	38
48	11/05/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	12/13/2004	MAIL FINAL REJECTION (PTOL - 326)			
46	12/11/2004	FINAL REJECTION			
45	11/05/2004	WORKFLOW INCOMING AMENDMENT IFW			
44	10/12/2004	MAIL ADVISORY ACTION (PTOL - 303)			
43	10/07/2004	ADVISORY ACTION (PTOL-303)			
42	10/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
41	10/05/2004	DATE FORWARDED TO EXAMINER			
40	08/27/2004	AMENDMENT AFTER FINAL REJECTION			
39	08/27/2004	WORKFLOW INCOMING AMENDMENT IFW			
38	07/02/2004	MAIL FINAL REJECTION (PTOL - 326)			
37	06/28/2004	FINAL REJECTION			
36	05/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	34
35	06/09/2004	DATE FORWARDED TO EXAMINER			
34	05/28/2004	RESPONSE AFTER NON-FINAL ACTION			
33	05/28/2004	WORKFLOW INCOMING AMENDMENT IFW			
32	03/15/2004	MAIL NON-FINAL REJECTION			
31	03/11/2004	NON-FINAL REJECTION			
30	03/08/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	09/17/2001	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
28	02/24/2004	DATE FORWARDED TO EXAMINER			
27	02/20/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
26	02/12/2004	APPLICATION DISPATCHED FROM OIPE			
25	02/12/2004	APPLICATION IS NOW COMPLETE			
24	09/17/2001	PAYMENT OF ADDITIONAL FILING FEE/PREEEXAM		66	5
23	09/17/2001	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
22	01/28/2004	MAIL RESTRICTION REQUIREMENT	630		-1
21	01/23/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
20	12/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

19	07/24/2003	MISCELLANEOUS INCOMING LETTER			
18	11/26/2003	CASE DOCKETED TO EXAMINER IN GAU			
17	11/26/2003	DISPATCH FROM OIPE TO CORPS - U-P-R-D APPLICATION			
16	09/17/2001	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
15	09/17/2001	SUBSTITUTE SPECIFICATION FILED			
14	07/23/2003	MAIL-PETITION DECISION - GRANTED			
13	03/24/2003	PETITION ENTERED			
12	05/21/2003	MAIL-PETITION DECISION - GRANTED			
11	05/21/2003	MAIL-PETITION DECISION - DISMISSED			
10	02/14/2002	PETITION ENTERED			
9	02/14/2002	PETITION ENTERED			
8	10/10/2001	MAIL-PETITION DECISION - DISMISSED			
7	08/16/2001	PETITION ENTERED			
5	04/13/2001	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
4	04/13/2001	CORRESPONDENCE ADDRESS CHANGE			
3	04/13/2001	CORRESPONDENCE ADDRESS CHANGE			
2	03/26/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/08/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,167,340 B2
DATED : January 23, 2007
INVENTOR(S) : Sata, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 543 days

Delete the phrase "by 543 days" and insert – by 551 days--